

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 26 2016

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

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5 UNITED STATES OF AMERICA,

6 vs.

7 DERRICK BOGESS

8 Name

2:14-CR-00179-RMP

9
10 File No.

11
12 **AGREEMENT FOR PRE-TRIAL DIVERSION**

13 It appearing to the United States that you committed an offense against the
14 United States on or about April 22, 2014, in violation of Title 18 United States
15 Code, Sections 1152 and 1112, in that you, DERRICK BOGESS, a non-Indian,
16 acting with gross negligence, did unlawfully cause the death of your minor child,
17 C.S.B., an Indian, in the commission of an unlawful act, not amounting to a
18 felony, to wit: reckless endangerment, by placing your daughter, C.S.B. a minor,
19 in a vehicle driven by Harry Williams, an intoxicated person, as well as failing to
20 restrain the minor child in the vehicle by way of seatbelt or other restraint
21 mechanism, such that the minor child died as results of a motor vehicle accident
22 caused by the intoxicated driver and the failure to use a restraint mechanism in the
23 vehicle, which is conduct that you knew or could have reasonably foreseen was or
24 could be a threat to the life of your minor child, and which was a proximate cause
of your minor child's death; which amounts to the crime of involuntary
manslaughter. Upon your accepting responsibility for this act, and it further
appearing, after an investigation of the offense, and your background, that the
interest of the United States and your own interest and the interest of justice will
be served by the following procedure, therefore,

25 On the authority of the Attorney General of the United States, MICHAEL C.
26 ORMSBY, United States Attorney for the Eastern District of Washington, and
27 Caitlin Baunsgard, Assistant United States Attorney for the Eastern District of
28 Washington, prosecution in this District for this offense shall be deferred for a
period of 3 months from the date of the signing of this agreement, or the date of

1 entry of a guilty plea to state charges in Ferry County, whichever comes first,
2 provided you abide by the following conditions and the requirements of the
3 program set out below.

4 Should you violate the conditions of this supervision, the United States
5 Attorney may revoke or modify any conditions of this pre-trial diversion program
6 or change the period of supervision which shall in no case exceed 3 months. The
7 United States Attorney may release you from supervision at any time. The
8 United States Attorney may at any time within the period of your supervision
9 initiate prosecution for this offense should you violate the conditions of this
supervision and will furnish you with notice specifying the conditions of your
program which you have violated.

10 If, upon completion of your period of supervision, a pre-trial diversion
11 report is received to the effect that you have complied with all the rules,
12 regulations and conditions above mentioned, no prosecution for the offense
13 set out on Page 1 of this Agreement will be instituted in this District, and
Count 2 of Cause Number 2:14-CR-00179-RMP, will be dismissed.

14 Neither this Agreement nor any other document filed with the United States
15 Attorney as a result of your participation in the Pre-Trial Diversion Program will
16 be used against you in connection with any prosecution for the above described
offense.

18 **CONDITIONS OF PRE-TRIAL DIVERSION**

- 20 1. You shall not violate any law (federal, state and local). You shall
immediately contact your pre-trial diversion supervisor if arrested and/or
questioned by any law enforcement officer.
- 22 2. You shall enter a guilty plea to the state charge of Reckless Endangerment or
similar misdemeanor which will be instituted against you by prosecuting
authorities in Ferry County. In conjunction with that prosecution, you shall
appear for all court dates.
- 26 3. You shall continue to live in this judicial district. If you intend to move out
of the district, you shall inform your supervisor so that the appropriate transfer of
program responsibility can be made.

1 4. You shall report to your program assigned United States Probation Officer
2 supervisor as directed and keep him informed of your whereabouts, as well as
3 your current contact information, to include but not limited to your address
4 and phone number.

5 5. You shall refrain from the use of alcohol and any controlled substances, to
6 include marijuana. In order to monitor compliance with this condition, you shall
7 submit to drug / alcohol testing as directed by your assigned United States
8 Probation Officer supervisor.

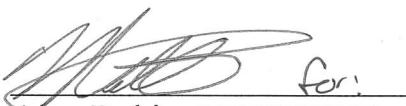
9 **Court Status**

10 I, DERRICK BOGESS, assert and certify that I am aware of the fact that
11 the Sixth Amendment to the Constitution of the United States provides that in all
12 criminal prosecutions the accused shall enjoy the right to a speedy and public trial.
13 I also aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides
14 that the Court may dismiss an indictment, information, or complaint for
15 unnecessary delay in presenting a charge to the Grand Jury, filing an information
16 or in bringing a defendant to trial. I hereby request that the United States
17 Attorney for the Eastern District of Washington defer any prosecution of me for
18 violation of Title 18, United States Code, Sections 1152 and 1112, for a period of
19 3 months, and to induce him to defer such prosecution I agree and consent that
20 any delay from the date of this Agreement to the date of the initiation of the
21 prosecution, as provided for in the terms expressed herein, shall be deemed to be a
22 necessary delay at my request and I waive any defense to such prosecution on the
23 ground that such delay operated to deny my rights under Rule 48(b) of the Federal
24 Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the
25 United States to a speedy trial or to bar the prosecution by reason of the running of
26 the statute of limitations for a period of months, which is the period of this
27 Agreement.

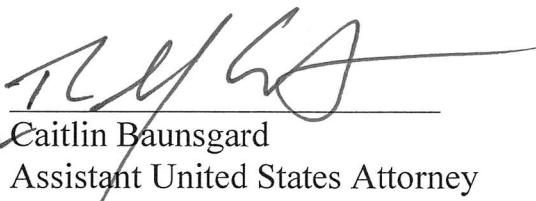
28 I hereby state that the above has been read by me. I understand the
29 conditions of my pre-trial diversion and agree that I will comply with them.

30 Derrick Boggess
31 DERRICK BOGESS
32 Defendant

33 2-26-15
34 DATE

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2 
3 Amy Rubin
4 Defendant's Attorney

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6 2 - 26 - 16
7 DATE

8 
9 Caitlin Baunsgard
10 Assistant United States Attorney

11 2/26/16
12 DATE

13 APPROVED without passing judgment on the merits or wisdom of this
14 diversion.

15 
16 Honorable Rosanna Malouf Peterson
17 United States District Court Judge

18 2/26/16
19 DATE

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